

EXHIBIT A

Page

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

THE PHILLIES, a
Pennsylvania limited
partnership,

Plaintiff,

-vs-

HARRISON/ERICKSON,
INCORPORATED, a New York
corporation, HARRISON
ERICKSON, a partnership,
and WAYDE HARRISON and
BONNIE ERICKSON,

Defendants.

Civil Action No.

19-7239-VM-SN

DUANE MORRIS LLP
30 SOUTH 17TH STREET
PHILADELPHIA, PENNSYLVANIA 19103
FEBRUARY 13, 2020
9:18 A.M.

****CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER****

VIDEOTAPED DEPOSITION OF
THOMAS ANDREW BURGOYNE

REPORTED BY:

DEBRA SAPIO LYONS, RDR, CRR, CRC, CCR, CLR, CPE

JOB NO. 176994

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<p>1 2 3 4 5 February 13, 2020 6 Videotaped deposition of Thomas Andrew Burgoyne, 7 held at the offices of Duane Morris LLP, 30 South 8 17th Street, Philadelphia, Pennsylvania 19103, 9 before Debra Sapio Lyons, a Registered Diplomat 10 Reporter, a Certified Realtime Reporter, a 11 Certified Realtime Captioner, a Certified 12 LiveNote Reporter, an Approved Reporter of the 13 United States District Court for the Eastern 14 District of Pennsylvania, a Certified Court 15 Reporter of the State of New Jersey, a Notary 16 Public of the States of New Jersey, New York and 17 the Commonwealth of Pennsylvania. 18 19 20 21 22 23 24 25</p>	<p>1 APPEARANCES: 2 DUANE MORRIS 3 BY: DAVID WOLFSOHN, ESQUIRE 4 30 South 17th Street 5 Philadelphia, Pennsylvania 19103 6 Attorneys for Plaintiff 7 8 MITCHELL SILBERBERG & KNUPP 9 BY: J. MATTHEW WILLIAMS, ESQUIRE 10 1818 N Street NW 11 Washington, D.C. 20036 12 AND 13 MITCHELL SILBERBERG & KNUPP 14 BY: LEO LICHTMAN, ESQUIRE 15 437 Madison Avenue 16 New York, New York 10022 17 Attorneys for Defendants 18 ALSO PRESENT: 19 SCOTT BRANDRETH 20 CRYSTAL STRAWBRIDGE, VIDEOGRAPHER 21 TSG REPORTING, INC. 22 23 24 25</p>
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<p>1 Confidential - Thomas A. Burgoyne 2 THE VIDEOGRAPHER: This is the start 3 of Tape Labeled Numbered 1 of the 4 videotaped deposition of Tom Burgoyne in 5 the matter of The Phillies, a Pennsylvania 6 Limited Partnership, v. Harrison/Erickson 7 Incorporated, et al., in the United States 8 District Court for the District of New 9 York, Civil Action Number 19-7239-VM-SN. 10 This deposition is being held at 11 30 South 17th Street, Philadelphia, 12 Pennsylvania on February 13th, 2019 at 13 approximately 9:18 a.m. 14 My name is Crystal Strawbridge from 15 TSG Reporting, Inc. I'm the legal video 16 specialist. The court reporter is Debbie 17 Lyons in association with TSG Reporting. 18 Will counsel, please, introduce 19 yourself. 20 MR. WILLIAMS: Matt Williams for the 21 Defendants, Harrison/Erickson, et cetera. 22 MR. LICHTMAN: Leo Lichtman also for 23 the Defendants. 24 MR. WOLFSOHN: David Wolfsohn for 25 Plaintiff, The Phillies.</p>	<p>1 Confidential - Thomas A. Burgoyne 2 THOMAS ANDREW BURGOYNE, having been 3 first duly sworn, was examined and 4 testified as follows: 5 EXAMINATION 6 BY MR. WILLIAMS: 7 Q. Good morning, Mr. Burgoyne. 8 A. Good morning. 9 Q. As I just said, I'm Matt Williams. 10 I'm the attorney for Bonnie Erickson and Wayde 11 Harrison in this litigation. 12 I'm just going to go over a few 13 things with you about the nature of the 14 deposition to get started. 15 You understand you just took an 16 oath to tell the truth and that we're in a 17 Federal Court litigation. 18 Do you understand that? 19 A. Yes. 20 Q. Okay. And she's creating a 21 transcript today, the court reporter, so we 22 need to make sure, if we can, not to talk over 23 each other or interrupt each other because she 24 can't take down two people at the same time. 25 Sometimes that's going to happen just as a</p>

<p style="text-align: right;">Page 110 Page</p> <p>1 Confidential - Thomas A. Burgoyne</p> <p>2 also may not have seen it, so...</p> <p>3 THE WITNESS: I may not have seen</p> <p>4 it.</p> <p>5 MR. WILLIAMS: Well --</p> <p>6 THE WITNESS: I hate to, you know --</p> <p>7 MR. WILLIAMS: -- I mean, let him</p> <p>8 testify.</p> <p>9 MR. WOLFSOHN: No, I know.</p> <p>10 MR. WILLIAMS: I understand what</p> <p>11 you're trying to do, but --</p> <p>12 MR. WOLFSOHN: No, I'm not -- I</p> <p>13 don't care one way or the other. I'm</p> <p>14 just -- I know that I didn't send it to him</p> <p>15 and so what I'm saying is: Did you see</p> <p>16 this? Obviously you've seen a lot of the</p> <p>17 pictures in here --</p> <p>18 THE WITNESS: Yeah, and I think --</p> <p>19 MR. WOLFSOHN: -- and the products.</p> <p>20 THE WITNESS: Exactly. I don't</p> <p>21 think I've seen this document before --</p> <p>22 BY MR. WILLIAMS:</p> <p>23 Q. Okay.</p> <p>24 A. -- like this. Yeah. You know, I</p> <p>25 went through it looking at some of these</p>	<p style="text-align: right;">Page 111 Page</p> <p>1 Confidential - Thomas A. Burgoyne</p> <p>2 pictures and some of them -- some of them look</p> <p>3 familiar of part of the process of preparing</p> <p>4 for this litigation; and I -- and I thought</p> <p>5 this was the actual, you know, lawsuit or</p> <p>6 whatever the word would be, so...</p> <p>7 MR. WOLFSOHN: Oh, Complaint?</p> <p>8 THE WITNESS: Complaint, yeah.</p> <p>9 BY MR. WILLIAMS:</p> <p>10 Q. Did you participate in the</p> <p>11 creation of something similar to this?</p> <p>12 A. I know we looked at some of the</p> <p>13 products and artwork that has been designed of</p> <p>14 the Phanatic over the years, and so I've -- I</p> <p>15 have looked at those types of illustrations,</p> <p>16 yeah, of pictures of products and</p> <p>17 illustrations that we've produced.</p> <p>18 Q. And if you'll flip with me to</p> <p>19 Page 34 of the document, if you look at the</p> <p>20 one with the Number 100 next to it --</p> <p>21 A. Uh-huh.</p> <p>22 Q. -- is that the -- a reproduction</p> <p>23 basically of the images we discussed earlier</p> <p>24 today?</p> <p>25 A. It looks like it, yes.</p>
<p style="text-align: right;">Page 112 Page</p> <p>1 Confidential - Thomas A. Burgoyne</p> <p>2 Q. And do you know whether there's</p> <p>3 any other items within this document that</p> <p>4 relate to that, those changes?</p> <p>5 A. No, I do not know that.</p> <p>6 Q. Okay.</p> <p>7 (Counsel confer.)</p> <p>8 MR. WILLIAMS: Mark Exhibit</p> <p>9 Number 14.</p> <p>10 (Exhibit Burgoyne-14, e-mail</p> <p>11 correspondence bearing Bates Numbers</p> <p>12 HE001302 through HE001303, is marked for</p> <p>13 identification.)</p> <p>14 MR. WILLIAMS: This is a document</p> <p>15 with the Bates Number HE 1302. It's an</p> <p>16 e-mail chain.</p> <p>17 BY MR. WILLIAMS:</p> <p>18 Q. Do you recognize this e-mail chain</p> <p>19 from May of 2016, Mr. Burgoyne?</p> <p>20 A. I do.</p> <p>21 Q. And what -- what were these</p> <p>22 e-mails about?</p> <p>23 A. I had asked Bonnie to draw the</p> <p>24 head of the Phillie Phanatic that I could</p> <p>25 include in my Pheel the Love book.</p>	<p style="text-align: right;">Page 113 Page</p> <p>1 Confidential - Thomas A. Burgoyne</p> <p>2 Q. And if you look at Exhibit</p> <p>3 Number 13, the larger document you were just</p> <p>4 looking at, if you look at Number 64 on that</p> <p>5 list --</p> <p>6 A. Page 60 -- oh, Number 64.</p> <p>7 Q. Number 64. It's Page 23.</p> <p>8 A. Page 23?</p> <p>9 Q. Yes.</p> <p>10 A. Okay.</p> <p>11 Q. And is -- does that look like the</p> <p>12 same image to you?</p> <p>13 A. It does.</p> <p>14 Q. And on Exhibit Number 14,</p> <p>15 Ms. Erickson in that top e-mail says, "I've</p> <p>16 created the Phanatic art for this one-time</p> <p>17 use."</p> <p>18 Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. What is your understanding of what</p> <p>21 Ms. Erickson was giving you permission to do</p> <p>22 with this image?</p> <p>23 MR. WOLFSOHN: Objection, vague, and</p> <p>24 lack of foundation.</p> <p>25 Answer if you can.</p>